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CONCORD, N.H.

William H. Riley, Labor Commissioner  
Department of Labor  
State House  
Concord, New Hampshire

Dear Sir:

In your letter of April 10, 1952, you have asked whether or not payments of specific weekly amounts for permanent partial disability should continue after the death of the injured employee who dies from causes not connected with the injury for the period covered by the award. It is my opinion that these payments should end with the death of the worker.

As there are no specific decisions in New Hampshire a search was made to determine the decisions in neighboring states. It appears that most of the cases concerning this problem have been decided, in the first instance, by reference to the statute itself which provides generally that payments cease with the death of the worker. Other decisions concerned cases where the worker, at the time of death, had not received payments due up to date of death. Suits in these cases were only for such an amount with no attempt to recover for periods after death.

Workmen's Compensation statutes are sui generis, based on a new theory of compensation distinct from the previously existing theories of damages. Our New Hampshire statute, section 21, speaks of compensation to be "paid to the employee." Dependents are provided for in other sections of the statute. The primary purpose of this section of the statute is to supplement the diminished earning power of a partially disabled worker. Death terminates the earning power of the worker, therefore, if he has been satisfactorily compensated week by week, there is no reason to continue payments after death. This method of an award is not a lump sum settlement, and to use the words "vested rights" as far as weekly payments are concerned, only clouds the issue in an effort to rationalize a desired result.

I am of the opinion that the statute does not provide, or intend to provide, for the continuing of disability payments after the death of the recipient.

Very truly yours,

Arthur E. Bean, Jr.  
Law Assistant